

## REMARKS

Applicant thanks the Examiner for the detailed remarks and analysis. Claims 95-105 remain pending. Claims 54-94 have been cancelled.

### § 112 Rejection

Applicant has amended claims 95, 100-103 and 105 to correct the minor inconsistencies noted by the examiner. The claims comply with the requirements of 35 U.S.C. 112 and Applicant believes that these rejections are overcome.

### Double Patenting

Contrary to the Examiner's assertions, the claims in the currently pending application claim patentably distinct subject matter. Claim 95 requires a pedal travel simulator that is enabled and disabled by a pneumatically operable device. This feature is not disclosed in copending Application No. 20080217122. Accordingly, as all the features in the pending claims are not present in the copending application, the Examiner cannot support a *prima facie* case of obviousness and this rejection should be withdrawn.

### § 102 Rejections

Claim 95 is not anticipated by Hayn et al. (WO 2004/005095) because the Hayn reference fails to disclose a pedal travel simulator that is enabled and disabled by a pneumatically operable device. Instead, Hayn discloses an electrically operated simulator that includes electric motor 19. Nothing in Hayn discloses the claimed pneumatically operable device for enabling and disabling a pedal travel simulator. Accordingly, for this reason alone, claim 95 cannot be anticipated by Hayn and this rejection should be withdrawn.

Claim 95 is not anticipated by Klein (US 4659153) because Klein fails to disclose the claimed features. On an initial note, the explanation of the rejection based on Klein seems to be referring to the Hayn reference discussed above. For this reason, Applicant cannot rebut any assertion made by the Examiner. Moreover, the Klein reference at least fails to disclose the claimed pneumatically operable device for enabling and disabling a pedal travel simulator. Accordingly, the rejections based on Klein are improper and should be withdrawn.

The devices and mechanisms to decouple pedal actuation from the brake system are not the same as those that are attached to the brake pedal to provide force feedback to an operator during a brake-by-wire function. Accordingly, the Hayne and Klein references do not anticipate claim 95. The cited prior art neither discloses nor suggests the claimed features. Accordingly, claim 95 is believed in allowable form and a notice to that effect is earnestly requested.

§ 103 Rejections

Claims 100-102 depend from an allowable base claim for the reasons discussed above. The addition of Belart (US 3978669) does not correct the deficiencies of the base references. Therefore for this reason alone no *prima facie* showing of obviousness is made and this rejection should be withdrawn.

Allowed claims

Claims 103 and 105 were indicated as being allowable if rewritten in independent form. Applicant has done so and therefore claims 103 and 105 are now in allowable form.

Applicant believes that no additional fees are necessary; however, the Commissioner is authorized to charge to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit any overpayment

Respectfully Submitted,

**CARLSON, GASKEY & OLDS, P.C.**

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